

September 19, 1995

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VIA FEDERAL EXPRESS

Mr. William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Mail Stop Code 1170
Washington, DC 20554

Re: Comments to WT Docket No. 95-131
Modification of Part 95

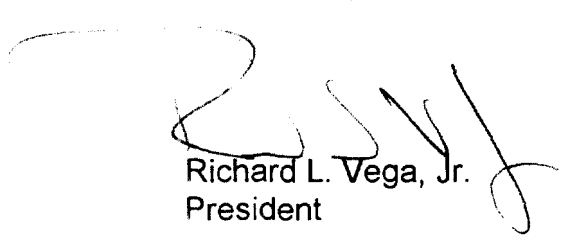
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Dear Mr. Caton:

Enclosed herewith, in an original and four (4) copies, are Comments prepared by The Richard L. Vega Group in response to the Notice in WT Docket No. 95-131, released August 14, 1995.

Should the Commission have any questions concerning these matters, please contact the undersigned.

Respectfully,


Richard L. Vega, Jr.
President

RLVJ:sp
Enclosures

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The Richard L. Vega Group

Telecommunications Engineers/Consultants

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the matter of)	WT Docket No. 95-131
Amendment of Part 95 of the)	
Commission's Rules to Modify)	
Construction Requirements for)	
Interactive Video and Data)	
Service (IVDS) Licenses)	

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To Chief, Wireless Telecommunications Bureau

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COMMENTS TO NOTICE OF PROPOSED RULEMAKING

The Richard L. Vega Group, (RLV), on behalf of its IVDS Clients ("Clients"), hereby submits its Comments to the **NOTICE OF PROPOSED RULEMAKING**, ("NOPR"), released August 14, 1995, WT Docket No. 95-131 regarding the amendment to Section 95.833(a) of the Federal Communication Commission's ("Commission") Rules proposing to eliminate the one-year construction "build-out" requirement for Interactive Video and Data Service ("IVDS"), licensees. RLV represents its Clients in a technical capacity, is a recognized expert in all facets of telecommunications matters, and is intimately familiar with Part 95 of the Commission's Rules regarding IVDS service. RLV applauds the Commission's efforts to promote the success of the IVDS industry, and the concern the Commission has that an inferior quality of interactive service would result if IVDS licensees are forced to build prematurely simply to meet a benchmark. In response to the Commission's NOPR, RLV provides the following Comments:

ELIMINATION OF THE ONE-YEAR CONSTRUCTION "BUILD-OUT"
REQUIREMENT

Section 95.833(a) of the Commission's Rules requires that 10% of the IVDS market be provided service within one year of the date of the IVDS authorization. The IVDS licensee is also required to provide 30% coverage in three (3) years, and 50% coverage by the fifth year of the license authorization. The Commission recognizes that the Rule Section cited above was crafted in 1992 at a time when the licenses were issued by lottery. Originally, the Commission said it sought to "reduce the filing of speculative applications by entities that have no intention of implementing IVDS systems". However, as a result of the recent changes to the licensing process, (i.e. Auctions), the issues regarding speculative applications is no longer a concern. The Commission has effectively reduced the incentive for speculation by incorporating auctions in its licensing process.

In the NOPR, the Commission concludes, albeit tentatively, that the one-year benchmark is unnecessary. RLV and its Clients support this conclusion by the Commission. However, RLV believes that the three-year benchmark is also unnecessary and should be eliminated from Section 95.833(a) of the Commission's Rules as it too has become an outdated, unnecessary, and unduly burdensome requirement for those sincere license holders searching for an effective utilization of the frequency and an equipment supplier that can provide the components necessary for this endeavor.

The Commission must recognize that the elimination of both the first and second benchmarks in favor of a five-year construction permit expiration period will allow those licensees an opportunity to focus completely on the technology selection process. The Commission knows that firms like RLV have traveled coast to coast in search of the technology that will allow the IVDS subscribers to enjoy the benefits of a full service interactive system; the same system described by Reed Hundt in his speech during the Auctions in July, 1994. So far, licensees have been confronted with the complex problem of evaluating numerous technologies that proclaim to be superior over all others; technologies that would deliver the type of system described by the Chairman. Today, these technologies do not exist. Applications for IVDS service are limitless, yet the operating restrictions are extensive (i.e., duty cycle, fixed RTU location, benchmark constructions, Channel 13 interference). Hence, system design will be a long process.

It has been over a year since the majority of the IVDS markets have been auctioned and the industry remains timid with respect to the economic viability of IVDS service given today's limited availability of quality equipment. RLV predicts that the industry will mature, in terms of equipment availability, in the second quarter of 1997, which will allow an IVDS licensee only a few short months to comply with the three-year 30% coverage benchmark. If this prediction holds true, the equipment supplier will undoubtedly have difficulty delivering equipment to the market. A one-time five-year benchmark would allow proper equipment to be delivered in time to allow for adequate system construction and optimization of these untested stations.

While it might be easy to provide basic coverage simply to meet the system build-out requirements, the public's interest would be severely harmed by the resulting sub-standard service. Hence, the public, as well as the fledgling IVDS industry, would only benefit from a one-time build-out requirement.

CONCLUSION

Based upon the Commission's desire to support the efforts of the IVDS industry to provide superior interactive service to the nation, it is imperative that the Commission adopt these Comments by eliminating not only the first-year build-out requirement, but the third-year build-out requirement as well. The IVDS licensee desperately seeks the Commission's assistance to ensure proper service is provided to the community which is of paramount importance to the public.

Respectfully submitted,

By: 

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Dated: September 19, 1995